

EXHIBIT 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : PAOLETTI
U.S. Serial No. : 08/228,926
Filing Date : April 18, 1994
Title of the Invention : MODIFIED VACCINIA VIRUS AND METHODS FOR
MAKING AND USING THE SAME
Confirmation No. : 4171
Examiner : Mary Mosher
Art Unit : 1648

745 Fifth Avenue
New York, NY 10151

FILED VIA EFS

DECLARATION OF DR. ENZO PAOLETTI

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

ENZO PAOLETTI declares and states that:

1. I am the named inventor on the above-captioned application ("the present application"). I have read and understood the May 16, 2008 Office Action issued in the present application. I am familiar with U.S. Patents Nos. 4,769,330, 4,603,112, and 6,632,438. I am named as an inventor on each of the foregoing patents, and am qualified to speak with respect to the dates of invention – conception and reduction to practice – of the subject matter in each of those patents. Also, I was a founder of the assignee of U.S. Patent No. 6,632,438, Virogenetics Corporation ("Virogenetics"). I served Virogenetics as its Research Director from its founding to when it ceased doing business. Inventions made at or assigned to Virogenetics, especially in U.S. Patent No. 6,632,438, were made under my direction, supervision and control. And from that capacity too, I am qualified to speak as to the dates of invention – conception and reduction to practice – of the subject matter of U.S. Patent No. 6,632,438.

2. The inventions of U.S. Patents Nos. 4,769,330 and 4,603,112, and especially the Examples stated in U.S. Patents Nos. 4,769,330 and 4,603,112, were conceived and actually reduced to practice in the United States prior to November 30, 1982. Virogenetics was founded after the inventions and Examples of U.S. Patent No. 4,769,330 and 4,603,112 were conceived and actually reduced to practice in the United States.

3. The inventions of U.S. Patent No. 6,632,438, and especially the inventions of claims 1-11 of U.S. Patent No. 6,632,438, could not have been included in the disclosure in either U.S. Patents Nos. 4,769,330 or 4,603,112, because the inventions, including as claimed, of U.S. Patent No. 6,632,438 had not been invented (conceived, reduced to practice) by December 24, 1981 and December 8, 1982 – the U.S. filing dates of U.S. Patents Nos. 4,769,330 and 4,603,112, respectively.

4. Indeed, the claims of U.S. Patent No. 6,632,438 arose from a patent application filed March 6, 1992. More in particular, the claims of U.S. Patent No. 6,632,438 had not been invented (conceived, reduced to practice) by December 24, 1981 or December 8, 1982. Therefore, claims 1-11 of U.S. Patent 6,632,438, could not have been included in the disclosure in either U.S. Patents Nos. 4,769,330 or 4,603,112.

5. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

Nov. 15, 2008
Date



DR. ENZO PAOLETTI